

cl\quarm-patenaude\pleadings\complaint031908

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

SAM QUARM  
19 Essex Court  
Norristown, PA 19403,

Plaintiff,

vs.

PATENAUDE & FELIX, A.P.C.  
213 East Main Street  
Carnegie, PA 15106

and

GREGG L. MORRIS  
213 East Main Street  
Carnegie, PA 15106

Defendants.

CIVIL ACTION

NO.

**COMPLAINT**

**I. INTRODUCTION**

1. This is an action for damages brought by a consumer pursuant to the Fair Debt Collection Practices Act, 15 U.S.C. §1692 ("FDCPA"). The FDCPA prohibits collectors from engaging in deceptive and unfair practices in the collection of consumer debt.

2. Defendant debt collectors repeatedly tried to collect on a consumer debt known to them to have been discharged in bankruptcy. Then Defendants sued Plaintiff in a distant (and wrong) county, in violation of the Act's prohibition on suits in inconvenient venues.

**II. JURISDICTION**

3. Jurisdiction arises under 15 U.S.C. § 1692k, actionable through 28 U.S.C. §§ 1331, 1337.

4. Both Defendants do business in the Eastern District of Pennsylvania.

### **III. PARTIES**

5. Plaintiff Sam Quarm is an adult individual residing in Norristown, Pennsylvania at the address captioned.

6. Defendant Patenaude & Felix, A.P.C. is a law firm with a regular place of business in Carnegie, Pennsylvania, and a mailing address as captioned.

7. Defendant Gregg Morris is an individual employed as an attorney, debt collector at Patenaude & Felix, A.P.C. with a mailing address as captioned.

8. Defendants regularly engage in the collection of consumer debts using the mails and telephone.

9. Defendants regularly attempt to collect consumer debts alleged to be due another.

10. Each Defendant is a "debt collector" as that term is contemplated in the FDCPA, 15 U.S.C. § 1692a(6).

11. Patenaude & Felix, A.P.C. and Gregg Morris are collectively referred to as "Patenaude."

### **IV. STATEMENT OF CLAIM**

12. On September 24, 2002, Plaintiff filed for Chapter 7 bankruptcy in the U.S. Bankruptcy Court for the Eastern District of Pennsylvania.

13. On February 21, 2003, the Honorable Kevin J. Carey entered an Order discharging Quarm of his debts under Chapter 7 of Title 11 of the U.S. Code. A copy of the discharge order is attached hereto as Exhibit "A".

14. One of the accounts listed on Plaintiff's bankruptcy petition and discharged as a result of the Court's Order of February 21, 2003, was an automobile retail installment contract

with Ford Motor Credit Company. A copy of the Certificate of Service of the Discharge Order showing Ford Motor Credit received notice is attached hereto as Exhibit "B".

15. Despite notice of the discharge of the debt in March 2007, Ford Motor Credit Co. filed a Complaint in Civil Action against Mr. Quarm in The Court of Common Pleas of Philadelphia.

16. Ford Motor Credit Co.'s Counsel of Record was Patenaude.

17. Quarm contacted Morris at Patenaude on or about March 27, 2007, and reminded Morris that the debt in question had been discharged in bankruptcy.

18. In response, the Complaint was dismissed (but without prejudice) on or about March 28, 2007.

19. In May 2007, despite notice of the discharge, Defendants on behalf of Ford Motor Credit Co. filed a second, serial Complaint in Civil Action against Mr. Quarm in The Court of Common Pleas of Berks County, Pennsylvania.

20. Ford Motor Credit Co.'s Counsel of Record was Patenaude.

21. Mr. Quarm contacted Patenaude several times to inform Patenaude again that the debt in question had been discharged in bankruptcy; Mr. Quarm again provided Patenaude with the bankruptcy docket number.

22. Plaintiff retained counsel, and filed preliminary objections to the venue in Berks County.

23. Mr. Quarm's undersigned counsel wrote to Patenaude on July 31, 2007, advising Patenaude that venue in Berks County was improper as Quarm lived in Montgomery County and again advising Patenaude that the debt had been discharged in bankruptcy. See letter attached hereto as Exhibit "C".

24. Patenaude, on behalf of Ford Motor Company, filed a Praecipe to Discontinue the Civil Action in Bucks County as to Sam Quarm on August 3, 2007.

25. Defendants, by filing these suits, violated the FDCPA by attempting to collect amounts not permitted by law. 15 U.S.C. § 1692f(1).

26. Defendants, by suing in Berks County, violated the FDCPA's strict limitation on venue. 15 U.S.C. § 1692i.

27. Mr. Quarm's counsel again wrote to Patenaude on August 10, 2007, enclosing the Bankruptcy Court Discharge of Debtor, Schedule and Certificate of Service concerning Mr. Quarm. See letter attached hereto as Exhibit "D".

28. Patenaude wrote to Mr. Quarm on January 25, 2008, again regarding the same discharged Ford Motor Credit Company Account, demanding payment of the (allegedly) outstanding balance. See letter attached hereto as Exhibit "E".

29. The January 25, 2008, letter states in part: "Upon receipt of the settlement proceeds, the account will be considered settled in full, our office will file a satisfaction of judgment in the appropriate court, and no more sums will be due and payable."

30. Patenaude knew that the account had been previously discharged as a result of the Chapter 7 bankruptcy proceedings.

31. Patenaude, despite knowing that the account had been discharged, sought over and over, through successive, failed lawsuits, then further collection duns, to harass and oppress Quarm into paying a debt he did not owe.

32. Section 1692e of the FDCPA prohibits a debt collector from using any false, deceptive or misleading means to collect an alleged debt, including the false representation as to the character, amount, or legal status of any debt. 15 U.S.C. §§ 1692e and 1692e(2)

33. Section 1692e(10) also prohibits the use of any false representation or deceptive means to collect a consumer debt.

34. Defendant, in its communication with Plaintiff, misrepresented the character, amount, and legal status of this account in violation of the FDCPA. 15 U.S.C. § 1692e(2).

35. Defendants used false and deceptive means to attempt to coerce Plaintiff to make payment on an account which had been discharged in bankruptcy.

36. Plaintiff incurred expenses and suffered anguish and angst over the repetitive suits and collection tactics.

**FAIR DEBT COLLECTION PRACTICES ACT**

37. Plaintiff repeats the allegations contained above as if the same were here set forth at length.

38. Defendants violated the FDCPA by falsely representing the character, amount and legal status of the account in violation of 15 U.S.C. § 1692e(2).

39. Defendants violated the FDCPA by making false, deceptive and misleading statements and representations in connection with the collection of this account in violation of 15 U.S.C. §§ 1692e and 1692e(10).

40. Defendants violated the FDCPA by seeking to collect amounts not authorized by the agreement creating the debt nor expressly permitted by law, in violation of 15 U.S.C. § 1692f(1).

41. Defendants violated by suing in the improper venue. 1692i.

42. Defendants engaged in unfair and unconscionable practices. 15 U.S.C. § 1692f.

**WHEREFORE**, Plaintiff Sam Quarm demands judgment against Defendants for:

(a) Damages;

- (b) Attorney's fees and costs; and
- (c) Such other and further relief as the Court shall deem just and proper.

**V. DEMAND FOR JURY TRIAL**

Plaintiff demands a trial by jury as to all issues so triable.

Respectfully submitted:

Date: March 19, 2008

/s/ Cary L. Flitter CLF5997

CARY L. FLITTER  
K. TIMILY FRAZIER  
Attorneys for Plaintiff

LUNDY, FLITTER,  
BELDECOS & BERGER, P.C.  
450 N. Narberth Avenue  
Narberth, PA 19072  
(610) 822-0782

**EXHIBIT "A"**

Form B18 (Official Form 18)

(9/97)

**UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF PENNSYLVANIA**

In Re:

Sam K. Quarm  
7733 B Lucretia Mott Way  
Elkins Park, PA 19027

Case Number: 02 - 33626

Chapter: 7

Debtor(s)

Social Security Number:

Debtor: [REDACTED]

**DISCHARGE OF DEBTOR**

It appearing that the debtor is entitled to a discharge, **IT IS ORDERED:** The debtor is granted a discharge under section 727 of title 11, United States Code, (the Bankruptcy Code).

**Dated: 02/21/2003**

**BY THE COURT**

Kevin J. Carey

United States Bankruptcy Judge

**SEE THE BACK OF THIS ORDER FOR IMPORTANT INFORMATION.**

#36

Form 180



**EXHIBIT "B"**

RAE SYSTEMS

Enterprise Systems Incorporated  
11457 Sunset Hills Road  
Reston, Virginia 20190-5234

# CERTIFICATE OF SERVICE

District/off: 0313-2  
Case: 02-33626

User: DonnaR  
Form ID: 180

Page 1 of 1  
Total Served: 31

Date Recd: Feb 21, 2003

The following entities were served by first class mail on Feb 23, 2003.

db Quarm, Sam K., 7733 S Lucretia Mott Way, Elkins Park, PA 19027  
tr SATRIALE, GLORIA, One McKinley Lane, Chester Springs, PA 19425  
smg Bureau of Audit and Enforcement, City of Allentown, 435 Hamilton Street, Allentown, PA 18101  
smg City Treasurer, Eighth and Washington Streets, Reading, PA 19601  
smg City of Philadelphia, City of Philadelphia Law Dept., Tax Unit/Bankruptcy Dept.,  
1515 Arch Street 15th Floor, Philadelphia, PA 19102-1504  
smg Commonwealth of PA, Bureau of Accounts Settlements, P.O. Box 8901, Attention: Bankruptcy Unit,  
Harrisburg, PA 17105  
smg Credit Bureau of Lancaster County, 218 West Orange Street, P.O. Box 1271, Lancaster, PA 17608  
smg Credit Bureau of Reading & Berks County, c/o Mr. Mills, P.O. Box 14114, Reading, PA 19612-4114  
smg Dun & Bradstreet, c/o Public Record Data Base, 899 Eaton Avenue, Bethlehem, PA 18025  
smg Lehigh County Tax Claim Bureau, 17 South Seventh Street, Allentown, PA 18101-2401  
smg Pennsylvania Department of Revenue, Bankruptcy Division, Department 280946, P.O. Box 280946,  
Harrisburg, PA 17128  
smg Roland C. Smith, General Manager, Associated Credit Bureau Service, 9910 Hamilton Boulevard,  
Allentown, PA 18106-9773  
smg Tax Claim Bureau, 633 Court Street, Second Floor, Reading, PA 19601  
smg Trans Union Credit Information, 760 Sprout Road, Springfield, PA 19064-4001  
smg U.S. Attorney Office, c/o Virginia Powell, Esq., Room 1250, 615 Chestnut Street,  
Philadelphia, PA 19106  
5624105 AT T, Financial Asset Management Systems Inc, P O Box 620429, Atlanta GA 30362  
5624104 American Education Services, P O Box 2461, Harrisburg PA 17105  
5624103 American Express, 20022 North 31st Avenue, Mailcode 202, Phoenix AZ 85027  
5624106 Cross Country Bank, P O Box 310711, Boca Raton FL 33431  
5624107 Ford Motor Credit, P O Box 3076, Columbia MD 21045  
5624107 Ford Motor Credit Company, c/o William B. Callahan, Esq., Flamm Boroff & Racine, PC,  
925 Harvest Drive, Suite 220, Blue Bell, PA 19422  
5624109 Household Bank, Credit Card Services, P O Box 81622, Salinas CA 93912  
5624108 Household Bank, P O Box 4144, Carol Stream IL 60137  
5624110 MBNA America, P O Box 15102, Wilmington DE 19886-5102  
5624111 Provident Bank, P O Box 660022, Dallas TX 75266  
5624112 Quest Diagnostics, P O Box 13589, Philadelphia PA 19101  
5624114 Retail Services, P O Box 17298, Baltimore MD 21297  
5624113 Temple University, Carnell Hall 040 13, 1801 North Broad Street, Philadelphia PA 19122  
5624115 Verizon, National Allied Bureau Inc, P O Box 35946, Dallas TX 75235

The following entities were served by electronic transmission on Feb 22, 2003 and receipt of the transmission was confirmed on:

smg +EDI: IRS.COM Feb 22 2003 02:49:00 Internal Revenue Service, Special Procedures Staff,  
P.O. Box 12051, Philadelphia, PA 19105-2051  
smg EDI: PADOR.COM Feb 22 2003 02:49:00 Pennsylvania Department of Revenue, Bankruptcy Division,  
Department 280946, P.O. Box 280946, Harrisburg, PA 17128  
5730934 EDI: BECKLEY.COM Feb 22 2003 02:49:00 American Express Travel Related Svcs Co,  
c/o Barbara Hamilton Esquire, PO Box 3001 Dept AC, Malvern PA 19355  
5624106 EDI: APFCARD.COM Feb 22 2003 02:49:00 Cross Country Bank, P O Box 310711,  
Boca Raton FL 33431

TOTAL: 4

\*\*\*\*\* BYPASSED RECIPIENTS (undeliverable, \* duplicate) \*\*\*\*\*  
5704383 Laramar Communities, LLC, dba Lynnwood Gardens, c/o Joseph J. Kalkbrenner, Jr.,  
Rugos, Kalkbrenner & Adeshead LLP, Suite 205 1250 Germantown Pike

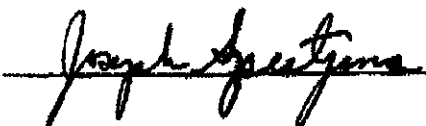
TOTALS: 1, \* 0

Addresses marked '+' were corrected by inserting the ZIP or replacing an incorrect ZIP.  
USPS regulations require that automation-compatible mail display the correct ZIP.

I, Joseph Spectjans, declare under the penalty of perjury that I have served the attached document on the above listed entities in the manner shown, and prepared the Certificate of Service and that it is true and correct to the best of my information and belief.

Date: Feb 23, 2003

Signature:



110900

PAGE 04

ENE TOWING LLC

2157840231

12/23/2010 15:17

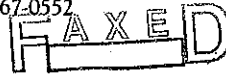
**EXHIBIT "C"**

LUNDY, FLITTER, BELDECOS & BERGER, P.C.

ATTORNEYS AT LAW  
450 N. NARBERTH AVENUE  
NARBERTH, PA 19072

(610) 668-0770

FAX (610) 667-0552



July 31, 2007

MARLTON, NJ  
(856) 338-1300

EMAIL: CFLITTER@LFBB.COM  
DIRECT DIAL: 610-822-0782

SENIOR COUNSEL  
FRANK SCHWARTZ

STUART R. LUNDY  
CARY L. FLITTER  
ANTHONY J. BELDECOS  
PHILLIP D. BERGER  
ERIC C. MILBY  
THEODORE E. LORENZ  
SUZANNE G. REISMAN  
C. SCOTT SPEAR  
DEBORA A. GONZALEZ  
K. TIMILY FRAZIER

**VIA TELECOPIER (412-429-7679)**

Gregg L. Morris, Esquire  
PATENAUDE & FELIX, A.P.C.  
213 East Main Street  
Carnegie, PA 15106

**RE: Ford Motor Credit Co. Motor Credit v. Sam Quarm and Wendy  
Quarm, a/k/a Wendy Albury  
C.C.P. Berks County, No. 07-4306**

Dear Mr. Morris:

We have been retained by Mr. and Mrs. Sam Quarm in connection with the above matter. We have prepared and filed Preliminary Objections in the above, a copy of which was sent to you last week.

Before incurring the added expense of briefing and arguing the Preliminary Objections, I write to request that you voluntarily dismiss the matter. For some reason, you filed the case in Berks County, when it is apparent from the pleadings that neither Defendant lives in Berks County. Venue is not proper there. See Pa.R.C.P. 440. Moreover, as you know, the FDCPA prohibits debt collectors from suing *in fora* other than the judicial district (county) in which the Defendant resides. 15 U.S.C. §1692i(a).

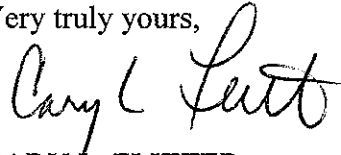
The debt has also been discharged in bankruptcy, a fact of which your firm was previously advised.

Gregg L. Morris, Esquire  
July 31, 2007  
Page 2

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Please confirm promptly if you will dismiss the pending Berks County action before yet further expense is incurred.

Very truly yours,



CARY L. FLITTER

CLF:jr

cc: Samuel Quarm  
Don Maurice, Esquire (via telecopier 908-237-4551)  
K. Timily Frazier, Esquire

**FAXED**

cl\quarm\correspondence\attorney-court\morris073107let

**EXHIBIT "D"**

LUNDY, FLITTER, BELDECOS & BERGER, P.C.

ATTORNEYS AT LAW  
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NARBERTH, PA 19072  
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SUZANNE G. REISMAN  
C. SCOTT SPEAR  
DEBORA A. GONZALEZ  
K. TIMILY FRAZIER

SENIOR COUNSEL  
FRANK SCHWARTZ

EMAIL: FRAZIER@LFBB.COM  
DIRECT DIAL: 610-668-0018

**FAXED**

August 10, 2007

VIA FACSIMILE (412) 429-7679

Gregg L. Morris, Esquire  
PATENAUE & FELIX, A.P.C.  
213 East Main Street  
Carnegie, PA 15106

**RE: Ford Motor Credit Co. Motor Credit v. Sam Quarm and Wendy Quarm, a/k/a  
Wendy Albury  
C.C.P. Berks County, No. 07-4306**

Dear Mr. Morris:

Mr. Cary Flitter asked me to fax to you the attached Bankruptcy Court Discharge of Debtor, Schedule and Certificate of Service concerning Sam Quarm.

Please advise our office if you will be pursuing your claim against Wendy Albury. We are not in a position to stipulate to the transfer from Berks to Philadelphia County.

Please feel free to call me with any questions.

Very truly yours,

  
K. TIMILY FRAZIER

Enclosures

# **EXHIBIT "E"**



LAW OFFICES OF

# PATENAUE & FELIX, A.P.C.

A PROFESSIONAL LAW CORPORATION

[X] PLEASE REPLY TO OFFICE INDICATED

I | 4545 MURPHY CANYON RD., 3RD FL  
SAN DIEGO, CALIFORNIA 92123  
TEL (858) 244-7600 (800) 832-7675  
FAX (858) 836-0318

[X] 213 EAST MAIN STREET  
CARNEGIE, PENNSYLVANIA 15106  
TEL (412) 429-7675 (800) 832-7675  
FAX (412) 429-7679

I | 1771 EAST FLAMINGO RD., STE. 112A  
LAS VEGAS, NEVADA 89119  
TEL (702) 952-2032 (800) 867-3092  
FAX (702) 992-6286

January 25, 2008

Sam Quarm  
19 Essex Ct  
Norristown PA 19403

RE: Our Client: FORD MOTOR CREDIT CO. MOTOR CREDIT  
Account Number: [REDACTED]  
Case Number: [REDACTED]  
Our File Number: [REDACTED]  
Account Balance: \$16,404.95  
Proposed Settlement Amount: \$9,842.97

Dear Sam Quarm:

The purpose of this letter is to advise you of a settlement program regarding your outstanding balance. The following is the settlement proposal:

We currently have the authority to reduce the outstanding balance on your account by **FORTY PERCENT (40%)**. The settlement amount must be confirmed with our office *prior* to receipt of funds. Upon receipt of the settlement proceeds, the account will be considered settled in full, our office will file a satisfaction of judgment in the appropriate court, and no more sums will be due and payable.

Please contact our office immediately at our toll free number to advise of your intentions. If you should have any further questions and/or comments, please do not hesitate to call and speak to one of our representatives.

This is an attempt to collect a debt and any information obtained will be used for that purpose.

Very truly yours,

LAW OFFICE OF PATENAUE & FELIX

\_\_\_\_\_  
GREGG L. MORRIS, ESQ.

**THIS COMMUNICATION IS FROM A DEBT COLLECTOR**